

ORIGINAL

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

3 32 pages, 0 exhibits

4 KENNY HILL,

5 Plaintiff,

Civil Action No. 05-160E

6 v.

Judge McLaughlin

7 JOHN LAMANNA, et al.,

Magistrate Judge Baxter

8 Defendants,

9

10 Deposition of KENNY HILL, plaintiff, by Notice, by
11 defendants, on November 1, 2006, set for 12:00 noon, before
12 Barbara D. Watts, Notary Public for the State of Virginia at
13 Large, on FCI Petersburg Low, Federal Correctional
14 Institution, 1100 River Road, Hopewell, VA 23860.

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21 2006 Sycamore Creek Drive

22 Manakin-Sabot, VA 23103

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1 all counsel and paralegal appear via video-teleconferene

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20

21 present with court reporter:

22 Kenny Hill, defendant

23 Cornelia Janven, staff person, FCI, Petersburg

24

1 KENNY HILL, plaintiff, called by defendants, first being
2 duly sworn, deposes and says, viz:

3

4 DIRECT EXAMINATION

5 BY MR. COLVILLE:

6 Q Good afternoon, Mr. Hill. My name
7 is Mike Colville. I'm the assistant U.S. Attorney,
8 assigned to defend the lawsuit you filed. The
9 purpose of today's deposition is for me to ask you
10 some questions about the facts and circumstances
11 surrounding your complaint dealing with the work you
12 performed while at Unicor.

13 Again, I suggest you wait for my
14 question to be finished before you begin yours. If
15 you don't understand one of my questions, just let
16 me know, and I will repeat it. I will assume,
17 however, if you do answer that you understood it and
18 that is your answer. They are the only ground
19 rules.

20 Let me begin by asking you a little
21 bit about your work at Unicor. My records indicate
22 you were hired at Unicor in June of 2001 and that
23 you worked as a Unicor employee through August 20 of
24 2004. Is that consistent with what your

1 recollection is?

2 A Yes, that is right.

3 Q Can you tell me, given that
4 timeframe, what jobs you held at Unicolor during that
5 period of time? Then I want to ask you a little bit
6 about what the duties were for each of the jobs you
7 held.

8 A Okay. I used to work on the day
9 shift on a panel saw. Then I got moved from the day
10 shift to the night shift.

11 Q How long did you worked on the day
12 shift?

13 A I can't remember. I think it was
14 like a few months, something like that. It wasn't
15 long.

16 Q What job were you assigned to when
17 you worked on the day shift?

18 A The day shift, they had me, I was
19 basically like a floater.

20 Q What were your duties?

21 A My duties? Well, anything that was,
22 anything that was available, right? I mean, if they
23 needed help here, there, there, then I had to go
24 there.

1 Q When you worked on the day shift did
2 you work with microboard?

3 A Microboard? I don't know who that
4 is. Microboard.

5 Q Did you worked with the board, the
6 material?

7 A Oh, Microboard, right. Microboard,
8 yes, sir. Yes, sir.

9 Q Explain to me when you worked with
10 it and what you did when you worked on the day
11 shift.

12 A Well, I wasn't in charge, I wasn't
13 in charge of that area. I was just a helper. I had
14 to help cut it, pack it, you know, and push it to
15 the next section.

16 Q When you worked on the date shift,
17 did you work with the microboard every day? Every
18 other day? Sundays? One day? Explain to me how
19 much contact you had with the microboard or when you
20 worked with the microboard.

21 A No. I had a lot of lot with the
22 microboard.

23 Q Explain to me what that contact was.

24 A It was basically every day until

1 they moved me over to the packing area.

2 Q When they moved you to the packing
3 was that a different shift?

4 A No. That was the same shift. They
5 moved me to the packing area on the same shift.

6 Q You indicated earlier you were on
7 the day shift about two months or so.

8 A Right.

9 Q Is that correct? How soon after you
10 started working day shift did they ship you off to
11 the packing department?

12 A I really can't remember. I really
13 can't remember.

14 Q When you were in the packing
15 department did you work with the microboard?

16 A Yes, sir, when we didn't have
17 anything, no work in that area, everybody had to
18 move from their area to that area.

19 Q What did you do with the microboard
20 when you were in the packing area?

21 A Nothing but just pack it, help cut
22 it and pack it.

23 Q When you say helped cut it, what do
24 you mean by help cutting it?

1 A On the machine, use the machine, put
2 it on the machine.

3 Q Did you operate the machine?

4 A Yes, I did operate the machine.

5 Q Did you operate the machine?

6 A Yes, I did. I had to hold the board
7 on the machine as we was cutting it. We had to cut
8 it in pieces, right, in different pieces.

9 A Then we put it on this cart and
10 another guy come get it and move it to another area.

11 Q Just so I'm clear you weren't
12 necessarily, you weren't operating the saw. You
13 were helping the person who operated the saw by
14 holding the microboard.

15 A Yes, sir, that is right. You are
16 right.

17 Q How often did you do that job?

18 A I did that a lot. I did it a lot on
19 the night shift.

20 Q When you were doing that job in
21 helping with the cutting of the microboard, did you
22 notice whether or not there was a dust collection
23 system attached to the saw that was cutting the
24 microboard?

1 A No, sir. It was never a dust
2 collection system connected to that machine because
3 they had a bag of rags, a bag of clean rags, where
4 as though we had to take the rags and wrap around
5 our face with them cheap goggles they had. At the
6 same time, right, they never provided me, right, or
7 anybody in that area with a respirator mask. They
8 gave us them little paper, white paint masks.

9 At the same time we had these rags
10 wrapped around our face to try to keep some of that
11 dust down. Also they had us working in these
12 clothes here, these khaki clothing. When you work
13 in these khaki clothing, right, you sweat, now you
14 have all their white powdery substance all on your
15 face, right. Now I look like a snowman, I'm already
16 light skinned, excuse me, but seriously though.

17 MR. BAUMANN: I think you have
18 answered his question, Mr. Hill. Let him ask
19 another question.

20 A Yes, sir.

21 BY MR. COLVILLE:

22 Q Mr. Hill, you pointed to the khaki
23 clothing that you are wearing presently which it
24 looks like it is a long sleeved shirt. Were you

1 allowed to wear long sleeved shirts while you were
2 helping the person operating the panel saw?

3 A This man, it didn't make no
4 difference. You had guys works on the machines with
5 long and short sleeve shirts. As long as they get
6 the job done.

7 Q Was it up to the individual inmate
8 to decide where he wore a long or short sleeved
9 shirt?

10 A No. They never said nothing to us,
11 nothing. We just left our area.

12 Q Did you wear long or short sleeves?

13 MR. BAUMANN: Mr. Hill, try to
14 listen to the question. I know you want to get
15 the story out. It will move quicker if you
16 answer the question he is asking you.

17 A Yes, sir.

18 BY MR. COLVILLE:

19 Q When you worked near the panel saw,
20 did you wear long or short sleeve shirts?

21 A I had short sleeve shirts; some days
22 I wore long sleeves.

23 Q When you worked near the panel saw,
24 when you were helping the person on the panel saw,

1 that panel saw did not have a dust collection system
2 attached to it?

3 A No, sir, it never did.

4 Q What was the name of the panel saw,
5 if you know?

6 A I can't remember.

7 VOICES OVERLAP.

8 Q That is enough. That is fine.

9 After the two month period when you worked on the
10 day shift, did you switch shifts and work the night
11 shift then?

12 A Yes, sir.

13 Q When you were working on the night
14 shift where you were assigned and what were your
15 duties?

16 A They had me assigned to packing.
17 Packing, I believe packing 102, I can't remember. I
18 ain't been up there in a while. I think like
19 packing one.

20 Q Am I correct in understanding, you
21 were assigned to the night shift about two months
22 after you started working with Unicor?

23 A Yes, sir.

24 Q Did you remain on the night shift

1 from that point to the end of your employment with
2 Unicor?

3 A Yes, sir.

4 Q For that entire period of time were
5 you assigned to the packing department?

6 A To the packing department.

7 Q What were your duties when you were
8 assigned to the night shift in the packing
9 department?

10 A Well, my duties were like to clean
11 the boards, to take, like they have a red glue
12 machine up there, so when the boards come over to me
13 it is my job to put this some kind of gas-like
14 substance on the board, and then I have to scrape
15 the red glue off all those boards, then slide them
16 down to the rest of the guys, and they have got to
17 clean it up and pack it right on top, send it to
18 another section.

19 Q How many days a week did you work?
20 How many hours a day did you work?

21 A I worked five days.

22 Q During that period of time on the
23 night shift?

24 A Five days a week, I worked every

1 day.

2 Q How many hours a day?

3 A That is, what, from work call until
4 closing, until what? From like. work call is like
5 3:35 until 11:00.

6 Q Who was your immediate supervisor
7 when you were assigned to the night shift?

8 A Mr. Bevivino and Mr., man, I can't
9 remember. I can't remember the other two guys.

10 Q Was Mr. English one of your
11 supervisors?

12 A Yes, sir, that is him, Mr. English.
13 They had another one on there too.

14 Q When you were assigned to the night
15 shift in the packing department, were there times
16 when you went back and worked or helped people who
17 were working the saws or the routers?

18 A Yes, sir.

19 Q How often would that occur that you
20 would be taken off the parking and set out to help
21 in another department?

22 A It was regular when they had a lot
23 of work.

24 Q Was there always a lot of work, or

1 did it vary?

2 A No. It was a lot of work up there.

3 Q Mr. Hill, let me ask you, have you
4 discussed the injuries and the symptoms of the
5 injuries that you claim were caused by you working
6 on Unicor factory? Let me ask you to list each one
7 individually, one by one. Then I will go back after
8 I write them down, and we will go back and discuss
9 each in a little more detail.

10 A Okay.

11 Q Tell me what injuries you believe
12 were caused by you having to work in the Unicor
13 factory.

14 A My injuries? Man, I have broke out
15 bad up there. I don't know what type of rash it was
16 but it was a bad, a very bad rash on my face, my
17 arm, and at the same time I had showed all this to
18 Mr. Hoolihan.

19 Other than that, you know, them cheap
20 boots that we wear here in the institution, right,
21 when you working around stuff like that, material
22 like that, and it was like, you know, the powder
23 substance, the powder substance was all on me, man.
24 I was messed up, looked like I had the measles up

1 here.

2 Q Was a rash the only symptom or
3 injury that you sustained as a result of working in
4 the Unicor factory?

5 A Rash, my eyes were burning and, you
6 know, my breathing.

7 Q Anything else?

8 A You know, other than that, as far as
9 itching.

10 Q Is that it?

11 A Yes, that is about it.

12 Q Now, with regard to those items you
13 just identified, do you currently suffer from any of
14 those injuries or symptoms today?

15 A Yes, sir. Still is.

16 Q Which ones are bothering you
17 presently?

18 A All of them are bothering me.

19 Q Do you have a rash right now?

20 A Yes, sir. I have a rash.

21 Q Where is it located?

22 A It is located on my arms, on my arms
23 and--

24 Q Can we see it?

1 (PAUSE.)

2 MR. BAUMANN: If you are comfortable

3 showing it to him, you can show it to him.

4 A Then, again, no, I ain't going to

5 show it. I have ladies in here, females in this

6 room. Excuse me.

7 BY MR. COLVILLE:

8 Q Is it on your arm though?

9 A Yes, my arm. I have it down here.

10 MR. BAUMANN: Describe the area if

11 you like.

12 A My arm, my neck. And my lower part

13 down here, like my stomach.

14 BY MR. COLVILLE:

15 Q Can I see the rash on the neck?

16 A It is right here.

17 MR. BAUMANN: If you are comfortable

18 with that.

19 A It is right here (presenting for

20 view).

21 Q We can't see it here. Thank you.

22 MR. BAUMANN: For the record, the

23 fact we can't see it is a fact of the video,

24 not necessarily the fact it is there or not

1 there.

2 BY MR. COLVILLE:

3 Q That is fine. Does the rash have a
4 feeling or a sensation?

5 A Just itch, man.

6 Q Do you still have problems with your
7 eyes feeling burny?

8 A Yes, I do.

9 Q Tell me about your breathing. You
10 mentioned breathing problems. What are they?

11 A You know, a lot of times I be short
12 of breath, feel like I can't breathe, like things is
13 stuffy.

14 Q Has it affected your activities in
15 the day in and day out things you do?

16 A Yes, sir. I used to play a lot of
17 ball. I don't play it no more.

18 Q Are you working where you are now?

19 A They have me as a unit orderly.

20 Q Have you had to receive medical
21 treatment for your breathing problems?

22 A Yes, sir. I came up here. I came
23 up here, yes, sir.

24 Q Who provided medical treatment for

1 your breathing problems?

2 A Mr., I can't think of the doctor
3 name here. It is so many doctors here.

4 Q Have you only been seen by a Bureau
5 of Prisons physician, or have you been sent outside
6 for evaluations by private physicians?

7 A No, sir. I never been outside.

8 Q I noticed in your medical record
9 that there were some X rays taken of your chest. Do
10 you recall having X rays taken?

11 A Yes, sir.

12 Q Where were those X rays taken?

13 A Where they was taken? Right here in
14 this facility.

15 Q Do you know why they were taken?

16 A Yes, sir. It was like a regular
17 checkup. They do regular checkups like every six
18 months, maybe seven months for all of us in here.

19 Q Here. Not McKean.

20 A No, no. Right here.

21 Q Mr. Hill, do you smoke?

22 A No, sir, it is in my record, never
23 had a drug or alcohol problem, never had a drug or
24 alcohol problem.

1 Q So you have never smoked cigarettes?

2 A No, sir. No, sir.

3 Q Were you present during the OSHA
4 inspection at McKean?

5 A No, sir, because they came on the
6 day shift. If I'm not mistaken, it was the day
7 shift that they came.

8 Q Mr. Hill, when you were helping the
9 person who was operating the panel saw, do you
10 remember how many boards they would cut at any one
11 time?

12 A Oh, man. It so many boards, I mean
13 I mean you work, you work and work and work until
14 they call break, a ten minute break.

15 Q Actually, Mr. Hill, I'm asking for
16 something a little more specific. As I understood
17 it, when you would help at the panel saw, you would
18 actually hold the microboard while they were being
19 cut. Is that accurate?

20 A Yes, sir. I hold it, like the guy
21 that is running the machine, right, when he gets
22 tired then I take over.

23 Q My question is, when you were
24 holding the boards or when you were operating the

1 machine, how many boards would you cut cut at one
2 time in the machine?

3 A Only be one board. Be one board at
4 a time.

5 Q Did you ever cut more than one board
6 at a time?

7 A Yeah. You talking about in the
8 machine?

9 Q Yes, sir.

10 A Yes. You have to cut one board at a
11 time on these particular machines.

12 Q The machine we are referring to, is
13 that the panel saw?

14 A No. Not the panel saw.

15 Q Which machine are you referring to?

16 A It is the other machine.

17 Q Is that the router?

18 A Right. The router.

19 Q Did you ever work at the panel saw?

20 A Yes, sir, I did.

21 Q When you worked at the panel saw,
22 how many boards at a time would you cut in the
23 machine?

24 A You could cut about, let me see,

1 about, if I am not mistaken, I think you could cut
2 at least about three, maybe four boards at a time in
3 that panel saw.

4 Q But how many, when you were working
5 there, did you cut in the machine at any given time?

6 MR. BAUMANN: You understand the
7 question?

8 A No, sir. Can you repeat it?

9 BY MR. COLVILLE:

10 Q When you were working on the panel
11 saw, that is when you were holding the boards that
12 were being cut, how many boards were you holding as
13 they were being cut when you worked the panel saw?

14 A The person that cut them, the person
15 that, well, the person that cut them, after the
16 board has been cut, if I am the helper after the
17 board has been cut, then I have to grab the board
18 maybe like, I mean, these boards are heavy, man.
19 You know, you are going to need help.

20 Q Mr. Hill, my question is this:
21 While the boards were being cut, as the operator was
22 cutting the boards, how many boards was he cutting
23 at one time?

24 A About three or four boards.

1 Q The injuries that you described
2 today, did you ever report any of those injuries to
3 any of your supervisors or any of the defendants
4 while you were working at Unicor?

5 A Yes, I did.

6 Q Who did you report your injuries to?

7 A Ms. Deborah Forsythe.

8 Q Okay?

9 A Mr. Hoolihan, Mr. English and
10 Mr. Bevivino, and I can't think of the other
11 supervisor was on that night shift. I had reported
12 to him too, and I said something to Mr. Marty Sapko.

13 Q Mr. Hill, when did you report the
14 injuries to these individuals? When did you report
15 these injuries to your supervisors or to the people
16 you just identified?

17 A When I had, as soon as I start,
18 well, when I had broke out, start scratching,
19 itching, and by me going to the Medical Center up
20 there, they was saying that it is coming from a
21 certain substance so the only thing I had in mind,
22 and that was Unicor, because other than that I
23 wasn't dealing with nothing else up there.

24 Q Whoever you told, did they let you

1 leave work to go to the medical center, or did you
2 go to the medical department after work?

3 A No. They call over there, and I go
4 over there like that.

5 Q While you were working?

6 A Yes, sir, while I was working.

7 Q When you came back, did you tell
8 them anything about what you had heard or done at
9 the medical department?

10 A No. I never said nothing to them.

11 Q What do you contend that the
12 defendants in this case should have done that they
13 didn't do?

14 A They should inform us what we was
15 cutting, what we was dealing with. They should have
16 provided us with the proper gear.

17 Q Before you were hired with Unicor,
18 did you have to go through an orientation process?

19 A Yes, sir. Everybody goes through
20 orientation process.

21 Q During your orientation process were
22 you told or instructed as to where the material
23 safety data sheets were located on the factory
24 floor?

1 A Yes, sir.

2 Q Were those sheets available to all
3 the inmates who worked on the factory floor--

4 A Yes, sir.

5 Q --to review?

6 A Yes, sir.

7 Q Had you ever reviewed those or taken
8 time to review those?

9 A Yes, I had. It is located right in
10 front of the office.

11 Q Is it safe to say anybody could have
12 access to those MSDS sheets who worked on the
13 factory floor, whether they be inmates or
14 noninmates?

15 A Yes, sir.

16 Q Did you ever request a respirator?

17 A Yes, I have.

18 Q Who did you request a respirator
19 from?

20 A From the floor supervisor.

21 Q Did you ever request a respirator
22 from defendant Forsythe?

23 A No, sir.

24 Q Did you ever request a respirator

1 from Warden Lamanna?

2 A Yes, sir, I did say something to
3 Warden Lamanna about it, and Mr. Hoolihan.

4 Q When did you speak with Warden
5 Lamanna about a respirator?

6 A During the time, the main line, main
7 line, lunchtime.

8 Q Do you remember when this was?

9 A No. I can't remember. I can't
10 remember.

11 Q When you spoke to Warden Lamanna
12 about the respirator, what did he say?

13 A He said I need to talk to one of my
14 supervisors about that.

15 Q Is that it, or did you and he
16 discuss anything else?

17 A No. That's it. I mean--

18 Q Did you request a respirator from
19 Mr. Sapko?

20 A No. I never said nothing to
21 Mr. Sapko.

22 Q Did you ever request a respirator
23 from Mr. Housler?

24 A Yes, I did. Mr. Housler.

1 Q When did you do that?

2 A During the course of main line.

3 That is the only time we really get to see him.

4 Q What if anything did Mr. Housler say
5 to you at that time?

6 A Well, Mr. Housler said the same
7 thing, talk to your floor supervisor.

8 Q I think you mentioned previously
9 about the dust mask that some of the inmates did
10 wear or were available on the factory floor. Did
11 you ever wear one of those dust masks?

12 A Yes, sir. I had to. It was a lot
13 of smoke.

14 Q How often would you wear the dust
15 mask?

16 A Every day.

17 Q Did you wear the dust mask whether
18 or not you were working near the panel saw or were
19 working in the packing department?

20 A During the panel saw.

21 Q So when you worked near the panel
22 saw or the router, did you wear the dust mask?

23 A Yes, sir. You have to.

24 Q When you were not near those places

1 did you still wear the dust mask?

2 A No, sir.

3 MR. BAUMANN: Asked and answered.

4 Q What if anything did you wear when
5 you were in the packing department?

6 A You had to wear masks too because
7 you dealing with that gas substance.

8 Q So essentially you wore a mask all
9 the time?

10 A Yes, really, yeah. If I didn't have
11 any work over at the packing area there was no use
12 for us wearing the mask. All right? If I had work
13 in the packing area, being we are dealing with the
14 gas substance, I had to put on the boards, right,
15 then you have to wear a mask because it is so
16 strong, man, that gas is so strong, it burn your
17 eyes up. It have you crying in there, man.

18 Q The other people you were working
19 with in Unicor packing department, did they also
20 wear masks?

21 A Yes, sir.

22 Q The people who were operating the
23 panel saws and rooters, were they wearing the dust
24 masks?

1 A Yes, sir.

2 Q Do you ever recall a time you were
3 working at the panel saw or the router where the
4 operator of that machine was not wearing a dust
5 mask?

6 A No. He had to have a dust mask on.

7 Q Are you familiar with the inmate
8 compensation program?

9 A Compensation program? I heard--

10 Q Yes, sir.

11 A I heard something about it. No, I'm
12 not.

13 Q Are you alleging that somebody in
14 management or any of the defendants in this case
15 altered the MSDS sheets?

16 A Yes, they did.

17 Q Tell me how it is that you know or
18 believe that any of the defendants in this case
19 altered the MSDS sheets.

20 A Well, when I was reading the MSDS
21 sheet, I noticed that certain things were marked
22 out.

23 Q How do you come to believe that any
24 of the defendants marked the MSDS sheet out?

1 A Well, everything on the MSDS sheet
2 they copies. If anybody go near the MSDS sheets
3 being the MSDS sheet book is located right exactly
4 in front of the office. If anybody approached that
5 MSDS book, one of the officers come out there and
6 question us, right. What are you doing, what are
7 you looking for, this and that, right.

8 Q Did you ever see Warden Lamanna on
9 the work floor of the Unicolor factory?

10 A He came through every now and then.

11 Q Did you witness any of the
12 defendants altering the MSDS sheets?

13 A No, sir.

14 Q Did anyone tell you that they
15 witnessed any of the defendants altering the MSDS
16 sheets?

17 MR. BAUMANN: Do you understand?

18 You can answer the question.

19 A Could you repeat the question?

20 Q Did anyone tell you that they
21 witnessed any of the defendants altering the MSDS
22 sheets?

23 A Yes, sir.

24 Q Who?

1 A The officer.

2 Q What officer?

3 A Man, I hate to do this, man--

4 A Officer Bevivino.

5 Q Officer Bevivino told you that he
6 observed one of the defendants altering the MSDS
7 sheets?

8 A Yes, sir.

9 Q When did that conversation take
10 place?

11 A During the night shift. I can't
12 remember what day.

13 Q When?

14 A It was during the night shift.

15 Q How did this conversation come up?

16 A Well, to be honest, when I had broke
17 out, the officer had told us what type of material
18 that we was dealing with. That's when I went and
19 did my homework, and it went from there.

20 MR. COLVILLE: That is all I have.

21 A Okay.

22 MR. COLVILLE: Thank you.

23 A Yes, sir.

24 MR. BAUMANN: Could we take one

1 second, to break for one minute?

2 MR. COLVILLE: We are going to take
3 a break for a minute.

4 A Okay.

5 (PAUSE.)

6 MR. BAUMANN: We are not going to
7 ask any questions.

8 SIGNATURE IS DISCUSSED AND NOT
9 WAIVED.

10 MR. COLVILLE: Thank you.

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1 I, KENNY HILL, certify I have read
2 my deposition of November 1, 2006, and such is
3 complete and accurate except as listed below.
4 Each page of corrections is signed.

5 Now is Should be Reason

6
7
8
9
10
11
12
13

14 Kenny Hill _____

15

16 Sworn to and subscribed before me, _____

17 _____, Notary Public for the State of

18 Virginia at Large.

19 My commission expires _____, 20__.

20 Witnessed this _____ day of _____, 2006.

21 _____ Notary Public

22

23

24

1 STATE OF VIRGINIA

2 COUNTY OF GOOCHLAND

3

4 CERTIFICATE OF NOTARY PUBLIC

5

6 I, Barbara D. Watts, Notary Public
7 for the State of Virginia at Large, certify I
8 reported the foregoing and such is complete and
9 accurate to the best of my ability.

10 The witness, who was sworn by me,
11 did not waive signature.

12 I am not related to any counsel,
13 party, or witness, and have no interest in the
14 outcome of this matter.

15 My commission expires May 31, 2009.

16 Given under my hand this 7th day of
17 November, 2006.

18 Barbara D. Watts

19 Barbara D. Watts, Notary Public

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